



TJ ENGLAND, ESQ.
Vice President
General Counsel

801-974-3515

Fax: 801-977-6667

E-Mail: tj.england@crengland.com

November 9, 2015

VIA OVERNIGHT DELIVERY

Ms. Kathleen H. Johnson
Director, Enforcement Division
U.S. Environmental Protection Agency
75 Hawthorne Street
San Francisco, CA 94105

Re: C.R. England, Inc. Response to U.S. Environmental Protection Agency's ("EPA") Letter
Regarding C.R. England's Compliance Status Related to
California Air Resource Board's ("CARB") "Truck and Bus Regulation"

Dear Ms. Johnson:

In regard to the above referenced matter and in response to the request for information dated June 30, 2015 (hereinafter referred to as the "Letter"), this correspondence and Statement of Certification will serve as C.R. England's (hereinafter "CRE" or the "Company") response thereto.

The original due date of August 14 to respond to the Letter was extended to September 15 through an email from David Kim on July 29, 2015. CRE's second request for an extension until October 30, 2015 was granted via phone message from Daniel Reich as confirmed in the letter dated August 31, 2015 from counsel Catherine Johnson of Hanson Bridgett to Daniel Reich. Finally, Daniel Reich approved an additional one week extension until November 9, 2015 via phone as confirmed in the letter from Catherine Johnson to Daniel Reich dated November 5, 2015.

CRE appreciates the allowance of additional time in order to respond to the Letter. Please direct all requests for additional information to my attention at the address provided herein.

I. Background

A. Challenges in Responding

CRE has made substantial and good faith efforts to respond to EPA's information request. CRE employees and private consultants have invested a significant amount of time to compile information responsive to the Letter.

CRE does not maintain the information requested by EPA in the specific format requested by EPA and is not required to do so by the Truck and Bus Regulation. This effort required CRE to

P.O. Box 27728 • Salt Lake City, Utah 84127-0728

4701 West 2100 South • Salt Lake City, Utah 84120 • 801-972-2712 • Fax 801-977-6667

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retain outside technical assistance to query and cross reference multiple sets of data located in disparate locations in order to compile the information requested. In doing so, CRE's third party consultant discovered a data loss in backup tapes storing records from past years which required significant effort to recreate and reconcile, sometimes manually. CRE's normal reporting does not allow it to track the life cycle of a truck from start to termination which required a great deal of research to compile.

To obtain some of the information, CRE had to contact and rely on third parties over which it has little control, such as manufacturers to obtain data to determine compliance. In some instances, the data provided by third parties was delayed, incomplete or unreliable which required further effort to verify. The data collection process was also hindered by the timing of the request which coincided with the three week summer vacation of a key private consultant.

B. Compliance with Truck and Bus Regulation

CRE's fleet of approximately 4,500 owned vehicles are currently 100% compliant with the Truck and Bus Regulation. The large majority (77%) of non-compliance of CRE's fleet in past years was due to a misunderstanding of the variance between engine model year and vehicle model year. As these older vehicles have been phased out, CRE has come into full compliance.

CRE's fleet travels approximately 80 million miles a year in California. Of the miles driven in California during the time period of this request just 1.3% of miles driven were non-compliant. While CRE takes its noncompliance seriously, it is important to understand the noncompliance in context along with the fact that CRE has made significant efforts to become 100% compliant. CRE's fleet compliance throughout the period far exceeds the compliance accepted from those carriers that elected flexible compliance efforts such as the Phase In schedule.

C. Recognition by EPA

CRE is an EPA SmartWay Transport Partner. This award is given by EPA "for superior environmental performance" and "recognizes top truck, barge, and multi-modal carrier partners that are setting efficiency benchmarks in how they move products and supplies".¹ The SmartWay Excellence Award also demonstrates a company's commitment to reduce its vehicle emissions and partnership with the EPA to improve its fleet efficiency.

EPA awarded CRE SmartWay Excellence Awards in 2009, 2014, and 2015. C.R. England was also recognized as a 2012 SmartWay Shipper Awardee. The program was inactive in 2010 and 2011, which means that CRE has received the award every year that EPA has recognized award winners.

CRE is proud of this award and the designation of a carrier that is committed to moving products in an efficient manner while partnering with EPA to reduce vehicle emissions. This commitment is demonstrated by CRE's success in improving efficiency and vehicle emissions and to achieve compliance with environmental regulations.

¹ EPA, SmartWay Excellence Awards, <http://www3.epa.gov/smartway/about/sw-awards.htm> (last visited October 14, 2015).

For the past three years, CRE has had an employee on the board of the North American Council for Freight Efficiency. In addition, CRE's President is active in the American Transportation Institute advocating for fuel efficiency and safety measures.

CRE is an industry innovator, investing significant time and money over the past decade testing aerodynamic devices at SAE Level II and IV for fuel economy. CRE dedicates two trucks, two trailers and two drivers to continually test such devices and employs a full time analyst to digest and report results. CRE is dedicated to improving fuel efficiency and associated vehicle emissions.

II. Response to Letter

CRE wishes to clarify that it does not waive any defenses available to it by providing this response, including, but not limited, to those identified below, and would like to make the following qualifications to the enclosed response to the requests in the Letter:

- CRE objects to the requests insofar as they seek privileged information, including any and all communications and documents that are protected from disclosure by either the attorney-client communication privilege or attorney work-product doctrine.
- CRE objects to the requests to the extent they improperly seek information beyond the scope of EPA's authority under Section 114(a) of the Clean Air Act, 42 U.S.C. § 7414(a).
- CRE objects to the requests to the extent they are vague, ambiguous, overbroad, and unduly burdensome in their scope and definitions.
- CRE objects to the requests to the extent that they are unreasonable or otherwise not a proper exercise of EPA's information-gathering authority under Section 114(a) of the Clean Air Act, 42 U.S.C. § 7414(a).
- CRE objects to the requests to the extent that they seek to have CRE create records which are not otherwise required to be kept in the ordinary course of business, under the Clean Air Act or California's Truck and Bus Regulation and other State Implementation Plans.
- CRE reserves the right, but not the obligation, to supplement and revise its response, and reserves the right to assert additional objections as it continues to evaluate its response.
- CRE reserves the right to request confidential treatment for the documents and information designated as "confidential business information" ("CBI") to the extent information in the files and documents are designated confidential either in this response or at a later point.

Finally, CRE notes that on several occasions, it was uncertain about the specific meaning of undefined terms used in the Letter. On some occasions CRE and its counsel affirmatively sought guidance from EPA or the California Air Resource Board or both. CRE interpreted undefined terms in the Letter in a manner generally consistent with CRE internal practices and standard industry usage.

CRE provides responses to the Questions in the Letter corresponding to the number below without waiving any of the foregoing qualifications and objections.

1. CRE has 135 vehicles that meet the criteria specified. The information requested on these vehicles is detailed in the enclosed spreadsheet.
2. None of the vehicles identified in response to Question 1 were equipped with a diesel particulate filter ("DPF").
3. Based on CRE's response to Question 2, no response is required for Question 3.
4. Based on CRE's response to Question 2, no response is required for Question 4.
5. Based on CRE's response to Question 2, no response is required for Question 5.
6. Based on CRE's response to Question 2, no response is required for Question 6.
7. CRE has no vehicles that meet the criteria specified, with the possible exception of 4 vehicles for which CRE is still collecting information to verify compliance.
8. The information requested for the vehicles listed in response to Question 1 is detailed in the enclosed spreadsheet. Based on CRE's response to Question 7, no response is necessary.
9. The information requested for the vehicles listed in response to Question 1 is detailed in the enclosed spreadsheet. Based on CRE's response to Question 7, no response is necessary. To confirm the accuracy of this response, we would like to follow up with EPA to clarify its definition of what constitutes a drayage truck.
10. The information requested for the vehicles listed in response to Question 1 is detailed in the enclosed spreadsheet. Based on CRE's response to Question 7, no response is necessary.
11. Vehicles are not assigned to specific terminals, so this information is not available to CRE. If EPA would like general information about terminal addresses, we can supplement this information; however, CRE has no terminals in California.
12. CRE utilizes independent contractors who provide their own truck and driver. The information requested for these vehicles is detailed in the enclosed spreadsheet.
13. (a) For the past three years, CRE has worked with its independent contractors to advise them of their obligations under the Truck & Bus Regulation and encourage them to apply for extensions or Low Use certification where applicable. We have reached out on more than half a dozen occasions through meetings, calls, emails to make sure independent contractors understand their obligation to remain in compliance. Independent contractors are contractually obligated to CRE to comply with federal, state and local laws.

In June of 2013, we notified all independent contractors that noncompliant vehicles would not be sent to California. We requested a copy of a certificate of compliance or a picture of the manufacturer's engine label to verify compliance

More recently, we have requested that each contractor provide written confirmation of the Truck & Bus Regulation by reference to CARB requirements. We also have also obtained a list of the engine year and particulate matter filter for these vehicles.

(b) With approximately 260 Independent Contractors, we are still gathering this information and will be supplementing this response to EPA within two weeks to provide copies of our Independent Contractors' written responses. We do not yet have all the written responses available for production. As a general policy, however, if contractors cannot provide certification of compliance, CRE terminates use of that contractor or vehicle for California.

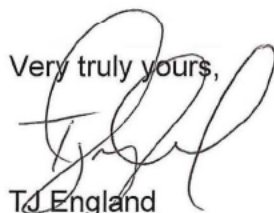
14. CRE's leased vehicles are considered part of the Company fleet and detailed in response to Questions 1 and 7.

15. CRE's leased vehicles are considered part of the Company fleet and detailed in response to Questions 1 and 7.

16. CRE is proud of the efforts it has taken to be a leader in compliance. CRE has taken extensive actions to comply with the Truck & Bus Regulation, and been preparing for compliance well in advance. We will be documenting these efforts in a supplemental response within the next two weeks.

17. CRE is not a California Based Broker. CRE's operations are not based in California and it is a motor carrier that arranges or offers to arrange the transportation of shipments which it is authorized to transport and which it has accepted and legally bound itself to transport.

Please feel free to contact me with any questions at the phone number listed herein.

Very truly yours,


T.J. England
Vice President & General Counsel

Enclosures

ENCLOSURE 2: Statement of Certification

[This Certification is for signature by the president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or another executive with authority to perform similar policy or decision-making functions of the corporation.]

C.R. England Inc. ("C.R. England") is submitting the enclosed documents in response to the U.S. Environmental Protection Agency's ("EPA") request for information, issued pursuant to Section 114(a) of the Clean Air Act, to determine whether the facility is in compliance with the Clean Air Act, including with the federally-approved California Truck and Bus Regulation.

I certify that I am fully authorized by C.R. England to provide the above information on its behalf to EPA.

I certify under penalty of law that I have personally examined and am familiar with the statements and information submitted in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true, correct, accurate and complete. I am aware that there are significant penalties for submitting false statements and information, or omitting required statements and information, including the possibility of fines and imprisonment for knowing violations.

Date:

11/9/15

Name (Printed):

TJ ENGLAND

Signature:

[Signature]

Title:

VP & GENERAL COUNSEL

SHIPPING FORM

FedEx

PLEASE PRINT CLEARLY

TO:

Company Name: U.S. Environmental Protection Agency
Contact Name: Kathleen H. Johnson
Address: 75 Hawthorne St.
City: San Francisco State: CA Zip: 94105
Phone Number: _____

We Can NOT
Ship to P.O.
Boxes

CR ENGLAND OFF-SITES:

School Name: _____

Yard Name: _____

SERVICE: (Please circle the one that applies)

GROUND 2nd DAY NEXT DAY SATURDAY Delivery

(if none of these are circled, GROUND will automatically be selected)

FROM:

Your Name: Lisa Serrano

Department Name: Legal

Cost Center 985 Ext: 3348

Invoice: _____ Date : 09Nov15 Shipping : 10.65
Customs: LISA SERRANO Weight : 0.35 LBS Special : 0.29
Phone # : _____ COD : _____ Handling : 0.00
Dept : LEGAL DEPT-985 DV : 0.00 Total : 10.94

Sves: PRIORITY OVERNIGHT
TRACK: 6310 4361 1778

Track Your Package

www.fedex.com

or

1-800-463-3339

Your tracking number will
be on the FedEx label to
your left

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